



**DIPLOMATIC CONFERENCE TO ADOPT A MOBILE EQUIPMENT  
CONVENTION AND AN AIRCRAFT PROTOCOL**

(Cape Town, 29 October to 16 November 2001)

**DRAFT FINAL ACT**

**of the Diplomatic Conference to Adopt a Mobile Equipment Convention  
and an Aircraft Protocol held under the joint auspices of the  
International Institute for the Unification of Private Law and the  
International Civil Aviation Organization  
at Cape Town from 29 October to 16 November 2001**

The Plenipotentiaries at the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol, held under the joint auspices of the International Institute for the Unification of Private Law and the International Civil Aviation Organization, met at Cape Town, at the invitation of the Government of the Republic of South Africa, from 29 October to 16 November 2001 for the purpose of considering the draft *Convention on International Interests in Mobile Equipment* and the draft *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*, prepared by three Joint Sessions of a Committee of Governmental Experts of the International Institute for the Unification of Private Law and a Legal Sub-Committee of the International Civil Aviation Organization, as well as by the Legal Committee of the International Civil Aviation Organization.

The Governments of the following [forty-four (44)] States were represented at the Conference and presented credentials in due and proper form:

Angola, the Republic of  
Argentine Republic, the  
Australia  
Bahrain, the State of  
Belgium, the Kingdom of  
Botswana, the Republic of  
Brazil, the Federative Republic of  
Burundi, the Republic of  
Cameroon, the Republic of  
Canada  
Chile, the Republic of  
China, the People's Republic of  
Costa Rica, the Republic of

Cuba, the Republic of  
Czech Republic, the  
Finland, the Republic of  
French Republic, the  
Germany, the Federal Republic of  
Hellenic Republic, the  
Ireland  
Jamaica  
Japan  
Jordan, the Hashemite Kingdom of  
Kenya, the Republic of  
Lebanese Republic, the  
Lesotho, the Kingdom of

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Mexican States, the United  
Netherlands, the Kingdom of the  
Oman, the Sultanate of  
Singapore, the Republic of  
South Africa, the Republic of  
Spain, the Kingdom of

Republic of Korea, the  
Sudan, the Republic of the  
Sweden, the Kingdom of  
Swiss Confederation, the  
Thailand, the Kingdom of  
Tonga, the Kingdom of

Turkey, the Republic of  
Uganda, the Republic of  
United Arab Emirates, the  
United Kingdom of Great Britain and Northern  
Ireland, the  
United States of America, the

The following [ten (10)] international organizations were represented by Observers:

African Civil Aviation Commission (AFCAC)  
Aviation Working Group (AWG)  
European Organisation for the Safety of Air Navigation (EUROCONTROL)  
European Community  
Hague Conference on Private International Law  
International Air Transport Association (IATA)  
Intergovernmental Organization for International Carriage by Rail (OTIF)  
Rail Working Group (RWG)  
Space Working Group (SWG)  
United Nations

The Conference unanimously elected as President Mr. M.R. Rwelamira (South Africa) and further unanimously elected as Vice-Presidents:

First Vice-President – Mr. H. Burman (U.S.A.)  
Second Vice-President – Mr. Gao H. (China)  
Third Vice-President – Mr. S. Eid (Lebanon)  
Fourth Vice-President – Mr. J. Salgado Gama Filho (Brazil)  
Fifth Vice-President – Mr. J. Atwood (Australia)

The Joint Secretariat of the Conference was the following:

For the International Institute for the Unification of Private Law:

Secretary General – Mr. Herbert Kronke, Secretary General  
Executive Secretary – Mr. Martin Stanford, Principal Research Officer  
Deputy Secretary – Ms. Frédérique Mestre, Research Officer  
Assistant Secretary – Ms. Lena Peters, Research Officer

For the International Civil Aviation Organization:

Secretary General – Mr. Ludwig Weber, Director of the Legal Bureau  
Executive Secretary – Mr. Silvério Espínola, Principal Legal Officer  
Deputy Secretary – Mr. Jiefang Huang, Legal Officer  
Assistant Secretary – Mr. Arie Jakob, Legal Officer

Other officials of both Organizations also provided services to the Conference.

The Conference established a Commission of the Whole which was chaired by Mr. A. Leinonen (Finland) and the following Committees:

*Credentials Committee*

Chairman: Ms. J. Thompson (Ghana)

Members: Costa Rica  
Ghana  
Oman  
Singapore  
Spain

*Drafting Committee*

Chairman: Sir Roy Goode (United Kingdom)

Members: Argentina  
Canada  
China  
France  
Germany  
Jamaica  
Japan  
Lebanon  
Mexico  
Nigeria  
Russian Federation  
South Africa  
United Arab Emirates  
United Kingdom  
United States

*Final Clauses Committee*

Chairman: Mr. K. Rattray (Jamaica)

Members: Canada  
China  
Cuba  
Egypt  
France  
Jamaica  
Kenya  
Pakistan

Saudi Arabia  
Senegal  
Singapore  
Sweden  
Switzerland  
United States.

Following its deliberations, the Conference adopted the texts of the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*.

The said Convention and Protocol have been opened for signature at Cape Town this day.

The Conference furthermore adopted by consensus the following Resolutions:

#### **DRAFT RESOLUTION NO. 1**

##### **ADOPTING THE CONSOLIDATED TEXT OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**

***MINDFUL*** of the objectives of the *Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*;

***DESIROUS*** to facilitate the application and implementation of the Convention and of the Protocol;

***TAKING INTO ACCOUNT*** Article 6, paragraph 1, of the Convention, which states that the Convention and the Protocol shall be read and interpreted together as a single instrument;

***RECOGNIZING*** the need of the international civil aviation community to facilitate the implementation of the rules applicable to aircraft objects in a user-friendly manner;

***HAVING AGREED*** to entrust the Joint Secretariat of the Conference, namely the Secretariats of the International Civil Aviation Organization (ICAO) and of the International Institute for the Unification of Private Law (UNIDROIT), with the drawing up of an authoritative consolidated text;

***THE CONFERENCE:***

**HEREBY ADOPTS** the Consolidated Text of the *Convention on International Interests in Mobile Equipment* and the *Protocol thereto on Matters Specific to Aircraft Equipment* as set out in the **Attachment** to this Resolution.

*[Attachment to this Resolution set out in DCME Doc No. 50, as amended]*

## **DRAFT RESOLUTION NO. 2**

### **RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY AND THE INTERNATIONAL REGISTRY FOR AIRCRAFT OBJECTS**

#### ***THE CONFERENCE,***

**HAVING ADOPTED** the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*;

**HAVING REGARD** to Article XVI paragraph 1 of the Protocol;

**CONSCIOUS** of the need to undertake preparatory work regarding the establishment of the International Registry in order to ensure that it is operational by the time the Convention and the Protocol enter into force;

**CONSIDERING** that the Council of the International Civil Aviation Organization (ICAO), following a recommendation made by the 31st Session of its Legal Committee, decided during its 161st Session to accept, in principle, the role of the Supervisory Authority of the International Registry for the purpose of the Protocol, and to defer further decisions on this matter until after the Diplomatic Conference;

#### ***RESOLVES:***

**TO INVITE** ICAO to accept the functions of the Supervisory Authority upon the entry into force of the Convention and the Protocol;

**TO INVITE** ICAO to establish a Commission of Experts consisting of not more than 15 members appointed by the ICAO Council from among persons nominated by the Signatory and Contracting States to the Convention and to the Protocol, having the necessary qualifications and experience, with the task to assist the Supervisory Authority, upon the entry into force of the Convention and the Protocol;

**TO SET UP**, pending the entry into force of the Convention and Protocol, a Preparatory Commission to act as Provisional Supervisory Authority for the establishment of the International Registry, under the guidance and supervision of the ICAO Council. Such Preparatory Commission shall

be composed of persons, having the necessary qualifications and experience, nominated by the following States: (*insert names of States*)

**TO DIRECT** the Preparatory Commission to carry out, under the guidance and supervision of the ICAO Council, the following functions:

- (1) to ensure that the International Registry be set up, in accordance with an objective, transparent and fair selection process, and that it become ready to be operated with a target date of one year from the adoption of the Convention and the Protocol, and at the latest by the time of the entry into force of the Convention and the Protocol;
- (2) to ensure the necessary liaison and coordination with the private industry which will be users of the International Registry; and
- (3) to work on such other matters relating to the International Registry as may be required with a view to ensuring the establishment of the International Registry.

**TO URGE** the States participating in the Conference and interested private parties to make available, at the earliest possible time, the necessary start-up funding on a voluntary basis for the tasks of the Preparatory Commission and of ICAO, required under the two preceding resolving clauses, and to entrust ICAO with the task to administer such funds.

### **DRAFT RESOLUTION NO. 3**

#### **PURSUANT TO ARTICLE 2(3)(b) AND (c) OF THE CONVENTION**

#### ***THE CONFERENCE,***

**HAVING ADOPTED**, in Article 2(3)(b) and (c) of the Convention, provisions contemplating the adoption of Protocols on matters specific to Railway Rolling Stock and Space Assets;

**CONSIDERING THAT** such Protocols will be applied together with the terms of the Convention and are expected also to include analogous provisions to those contained in the Aircraft Protocol;

**CONSIDERING THAT** considerable progress has already been made in relation to the development of such Protocols and such progress has been welcomed by the Conference;

**CONSIDERING THAT** the completion of such Protocols is to be expected to confer significant benefits on the international community as a whole, in particular for developing states; and

**CONSIDERING IT DESIRABLE** to involve as wide a range of States as possible in the process for the adoption of such Protocols and to keep the costs of such adoption to a reasonable minimum;

**RESOLVES:**

**TO INVITE** the negotiating States to work towards expeditious adoption of the draft Protocols under preparation in respect of those objects falling within Article 2(3)(b) and (c);

**TO INVITE** the International Institute for the Unification of Private Law (UNIDROIT) to use its good offices to facilitate such objective;

**TO INVITE** UNIDROIT to give all Member States of UNIDROIT and Member States of the United Nations which are not members of UNIDROIT, an opportunity to participate in the negotiation and adoption of such Protocols in a cost effective manner; and

**TO INVITE** the competent bodies of UNIDROIT to consider favourably the implementation of an expedited procedure for the adoption of such Protocols, and in particular to consider the diplomatic Conference required for their adoption being as short as possible consistently with the need for States to give such Protocol proper consideration.

**DRAFT RESOLUTION NO. 4**

**RELATING TO TECHNICAL ASSISTANCE WITH REGARD  
TO THE IMPLEMENTATION AND THE USE OF THE  
INTERNATIONAL REGISTRY**

**THE CONFERENCE,**

**MINDFUL** of the objectives of the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on Matters Specific to Aircraft Equipment*;

**DESIROUS** to facilitate the implementation of the Convention and the Protocol as well as the prompt implementation and the use of the international registry;

**RESOLVES:**

**TO ENCOURAGE** all Negotiating States, international organizations, as well as private parties, such as the aviation and financial industries, to assist the developing Negotiating States in any appropriate way, including facilities and know-how necessary to use the international registry, so as to allow them to benefit from the Convention and the Protocol as early as possible.

IN WITNESS WHEREOF the Delegates,

GRATEFUL to the Government of the Republic of South Africa for having invited the Conference to South Africa and for its generous hospitality,



HAVE SIGNED this Final Act.

DONE at Cape Town on the sixteenth day of November of the year Two Thousand and One in six authentic texts in the English, Arabic, Chinese, French, Russian and Spanish languages in two copies. The Convention and the Protocol shall be deposited with the International Institute for the Unification of Private Law. A certified copy of each instrument shall be delivered by the said Organization to each of the Governments represented at the Conference.

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